83-1175

Supreme Court, U.S.
DEC 1 1983
CLERK

No._____

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1983

Claire C. Gorst,

Petitioner

V.

United States of America,

Respondent

Petition For Writ of Certiorari To

The United States Court of Appeals

For The Tenth Circuit

Claire C. Gorst

Route 1 Box 33A
Rush Springs, Oklahoma 73082

Petitioner, Pro Se

QUESTIONS PRESENTED FOR REVIEW

I

SINCE THE 1979 AMENDMENT TO FEDERAL RULES OF APPELLATE PROCEDURE, RULE 4(a), WOULD UNIQUE CIRCUMSTANCES STILL PERMIT THE APPEALS COURT TO TAKE JURISDICTION IF AN APPEAL IS UNTIMELY FILED?

A. MAY APPELLANT RELY ON NORMAL MAIL DELIVERY?

B. ARE THERE CIRCUMSTANCES WHICH WOULD PERMIT THE APPEALS COURT TO TAKE JURISDICTION IN THE INTEREST OF JUSTICE?

C. SHOULD A PRO SE APPELLANT BE GIVEN MORE CONSIDERATION FOR HIS EFFORTS THAN A PRACTICING ATTORNEY?

D. WOULD ANY CONTACT WITH THE DISTRICT COURT INDICATING AN INTENT TO FILE AN APPEAL WITHIN THE TIME LIMITS SET FY F.R.A.P. 4(a) BE CONSTRUED AS A NOTICE OF APPEAL BY A PRO SE APPELLANT?

II

IS A NUNC PRO TUNC MOTION THE PROPER VESSEL TO REQUEST FROM THE DISTRICT COURT AN EXTENSION OF TIME IN WHICH TO FILE AN APPEAL WHEN APPELLANT WAS NOT AWARE HIS APPEAL WAS UNTIMELY UNTIL AFTER THIRTY DAYS BEYOND THE NORMAL DUE DATE?

III

WOULD THE DISTRICT COURT BE IN A BETTER POSITION TO GRANT AN EXTENSION OF TIME FOR FILING AN APPEAL WHERE EXCUSABLE NEGLECT EXISTS THAN THE APPEALS COURT?

PARTY TO THE PROCEEDING

The party to the proceeding is: Secretary, United States Department of Agriculture, an Agency of the United States of America by and through her Solicitor General.

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Fed. R. App. P.(a) 1

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT.

The Petitioner, Claire Coleman Gorst, respectfully prays that a writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Tenth Circuit entered on June 28, 1983.

OPINION BELOW

The Court of Appeals entered its order and judgment dismissing petitioner's appeal as untimely, being filed one day beyond the time prescribed by Fed. R. App. P. 4(a)(1), on June 28, 1983. A copy of the order and judgment is attached as appendix A.

The Court denied Petitioner's petition for rehearing and suggestion for rehearing en banc on September 6, 1983. A copy of the order is attached as appendix B.

JURISDICTION

On June 28, 1983, the Court of Appeals entered judgment dismissing Petitioner's appeal as being untimely filed. (App. A) The jurisdiction of this Court is invoked under title 28, United States Code, Section 1254(1). Federal Rules of Appellate Procedure, Rule 4(a), 28, U.S.C.A. establishes the authority for filing an appeal from a Federal District Court judgment. Federal Rules of Appellate Procedure are prescribed pursuant to sections 3771 and 3772 of title 18 U.S.C. and sections 2072 and 2075 title 28 U.S.C.

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution, Amendment V:

> "NOR SHALL ANY PERSON . . . BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW. . . ."

STATEMENT OF THE CASE

On January 28, 29 and February 11, 1982, Judge Frank Seay, Eastern District of Oklahoma, heard a non-jury trial on age discrimination in which Claire Coleman Gorst was the plaintiff. On June 17, 1982, the district court rendered a judgment for the defendant, the United States Department of Agriculture. A timely motion for new trial or to amend judgment was filed pursuant to Rule 59(a)(b)(e) of the Federal Rules of Civil Procedure. The motion was denied on July 29, 1982.

In response to letters he had written, Petitioner received letters from the Court clerk's office, Eastern District of Oklahoma, concerning an appeal, dated August 6, August 11, Sep. 14 and Sep. 30, 1982. Copies of the letters are attached as appendix C.

The appeal was mailed Friday, Sep. 24, 1982 by certified mail from Chickasha, Oklahome to Muskogee, Oklahoma, a distance of 250 miles.

The appeal is dated as filed Sep. 28, 1982.

The appeal was docketed Oct. 7, 1982.

By memorandum, Plaintiff and Defendant were given 15 days from Dec. 16, 1982 to file a brief with the Tenth Court of Appeals to answer the question: "Does the court lack jurisdiction to consider the appeal?" Plaintiff filed a brief dated December 30, 1982. Defendant filed no response.

Plaintiff filed a MOTION FOR EXTENSION OF TIME NUNC PRO TUNC in which to file an appeal, dated Jan. 10, 1983, with the Federal District Court. Defendant did not respond to this motion. The District Court, Eastern District of Oklahoma, issued an order

dated Feb. 4, 1983, granting a one day extension of time in which to file an appeal.

The Appeals Court issued an order and judgment dated June 28, 1983, dismissing the appeal as being untimely.

REASON FOR GRANTING THE WRIT

When an appellant files an appeal and it is not timely filed he is entitled to consideration by the courts as to why it was not timely filed, especially when only one day late. When an appellant files an appeal and it is not timely filed he is entitled to more consideration by the courts if he is appearing pro se and lacks the knowledge of a practicing attorney. When an appellant files an untimely appeal he is entitled to equal tratment by the courts and similar consideration from the courts that other appellants before him,

who found themselves in a similar situation, received from the courts.

It is required of the law that if justice is to be best served it is accomplished only if all the courts adhere to a similar interpretation of the law. In the case of an untimely appeal this is not the case. Some circuit courts adhere rigidly to the letter of the law and dismiss all late appeals as untimely, others give each appeal due consideration ruling on the merits of each appeal individually.

In many instances the Supreme Court ultimately settles the differences between the lower courts and establishes a fair and equitable interpretation of the law in dispute for the lower courts to follow. In this instant case the appeal court has not followed the principles established by the Supreme Court in its previous rulings concerning a pro se appellant efforts to

perfect an appeal nor shared the Supreme Court's concern for justice where unique circumstances are involved.

The appeal court's ruling appears exceptionally rigid and is even made to appear more rigid by the fact that the legal facts cited by the Tenth Circuit in support of its finding do in their own way support the contention that an appeal mailed in time to be received in time in normal mail delivery is deemed filed in time.

The appeal court's order reads in part:

> "The notice of appeal in this case was untimely filed on September 28, 1982, one day beyond the time prescribed by Fed. R. App. P 4(a)(1). Plaintiff argues that the notice of appeal was mailed sufficiently in advance for timely filing. This contention is without merit. See Sanchez V. Board of Regents of Texas Southern University, 625 F. 2d 521 (5th CIR. 1980)..."

But Sanchez ID. at 522 reads:

> "Nevertheless, reliance on the normal course of delivery of mail is reasonable and may be the basis for a court

to excuse otherwise untimely filing. See Fallen V. U.S., 378 U.S. 139, 84 S.Ct. 1689, 12 L.Ed. 2d 760 (1964);..."

In its order of June 28, 1983, the appeals court also cites "United States V. Ming Sen Shiue, 508 F.Supp.460 (D. Minn. 1981)." as a legal fact in support of its findings. The notice of appeal was filed 4 days late and the appellant in Ming Sen Shiue did argue the mail was unusually slow. Nevertheless, the district court in Ming Sen Shiue did extend the time to appeal, NUNC PRO TUNC, 30 days. ID at 462.

Finally, the appeals court cites "Matter of Bad Bubba Racing Products, Inc., 609 F. 2d 815 (5th CIR 1980)" as a legal fact. In Bad Bubba, the Fifth Circuit dismissed the appeal as being untimely. But the appeal was not placed in the mail until the day it was due to be filed in court.

Not all the circuits are as rigid or as

prone to disregard difficulties in perfecting an appeal as are the Fifth and the Tenth Circuits. Petitioner would cite for the Supreme Court the following cases from other circuits where delays were given consideration on their merits on an individual basis and unique circumstances dictated a similar approach as established by preceeding Supreme Court rulings:

1. United States V. Ward 696 F2d. 1315 (11th Cir. 1983).

2. Scott V. Wainwright 696 F2d. 427 (11th Cir. 1983).

3. Bradley V. Coughlin 671 F2d. 686 (2nd Cir. 1982).

4. Hermandez-Rivera V.Immigration and Naturalization Service 630 F2d. 1352 (9th Cir. 1980).

5. United Stated V. Ford 627 F2d. 807 (7th Cir. 1980).

6. Needham V. White Laboratories, Inc. 639 F2d. 394 (7th Cir. 1981).

7. United States V. Miller 666 F2d. 991 (5th Cir. 1982).

8. United States V. Solly 545 F2d. 874 (3rd Cir. 1976).

9. Rothman V. United States 508 F2d. 648 (3rd Cir. 1975)

10. United States V. Davis 210 F. Supp. 84 (D.N. Carolina 1962).

The Supreme Court has never accepted a Writ of Certiorari for an untimely appeal since the 1979 amendment to Rule 4, Fed. R. App. P. But it did remand back to the 5th Circuit an appeal which the Fifth Circuit dismissed as being untimely 102 S.Ct.962, 71 L.Ed. 2d 106 (1982). Also, see Barksdale V. Blackburn 647 F.2d. 630 (5th Cir. 1981).

The Supreme Court has held that "Clerk's receipt of the notice of appeal within the 30-day period" satisfies the filing requirements, for civil appeals, even if the notice is not actually "Stamped" or "Filed" until after the deadline. J. Parissi V. Telechron, Inc., 349 U.S. 46, 75 S.Ct. 577, 99 L.Ed. 867 (1955).

The Appeals Court ruled the District

Court's extension of time NUNC PRO TUNC for excusable neglect a nullity.

Petitioner mailed his appeal on September 24, 1982; introduced into evidence a certified receipt showing it was mailed on the 24th; introduced evidence from the Postal Department showing normal mail delivery from Chickasha to Muskogee, Oklahoma was one day; introduced evidence from the Postal Department in Muskogee showing the letter normally would have been received on the 25th and the Court Clerk would have been notified on the same day. All this was uncontroverted evidence. Defendant has filed nothing with the courts since petitioner filed his appeal.

Petitioner also received several letters from the District Court Clerk's office concerning his appeal. (See Appendix C). On September 14, 1982, he was notified he may mail his appeal and if timely received it

would be filed. On Sep. 30, 1982, he received another letter which refers to a phone call concerning the appeal and also acknowledges the letter as a receipt of the Sep. 24, 1982 letter. (Appeal).

The district court has the jurisdiction and authority to grant a motion NUNC PRO TUNC for excusable neglect. United States V. Ward 696 F2d. 1315 at 1318 (11th Cir. 1983):

> "Hence, the responsibility lies with the District Court to ascertain whether there was excusable neglect to authorize an extension of time.[3] We therefore remand Prows' appeal to the District Court for the limited purpose of making the necessary findings of fact" ...

The following cases are also cited in support of a motion NUNC PRO TUNC:

1. Seshachalam V. Creighton Univ. Sch. of Medicine 545 F2d. 1147 (8th Cir. 1976).

2. United States V. Shillingford 568 F2d. 1106 (5th Cir. 1978).

3. United States V. Lucas 597 F2d. 243 (10th Cir. 1979).

4. Moorer V. Griffin 575 F2d. 87 (6th Cir. 1978).

5. United States V.Stolarz 547 F2d. 108 (9th Cir. 1977).

6. Salazar V. San Francisco Bay Area Rapid Trans. Dist. 538 F2d. 269 (9th Cir. 1976).

7. Torockio V. Chamberlain Mfg. Co. 456 F2d. 1084 (3rd Cir. 1972).

8. Sanchez V. Dallas Morning News 543 F2d. 556 (5th Cir. 1976).

9. Alley V. Dodge Hotel 501 F2d. 880 (Dist. of Col. Cir. 1974).

10. Stirling V. Chemical Bank 511 F2d. 1030 (2nd Cir. 1975).

Supporting the opposite view there is no jurisdiction is Merrill Lynch Peirce, Fenner & Smith, Inc. V. Kurtenback, 525 F2d. 1179, 1183 (8th Cir. 1975).

Many courts, including the Supreme Court, take into consideration such factors as "Interest of Justice" and "Pro Se Application" and "Intent to File" which the Appeals Court appears to have overlooked in

this instant case.

Petitioner would like to present the following legal cases to support his argument that such factors should be and are consistently considered by the courts:

1. Haines V. Kerner 92 S.Ct. 594, 404 U.S. 519, 30 L.Ed.2d. 652 (1972).

2. Rodriguez V. United States 89 S.Ct. 1715, 395 E.D. 327 (1969).

3. Fallen V. United States 84 S.Ct. 1689, 378 U.S. 139 (1964).

4. Craig V. Garrison 549 F2d. 306 (4th Cir. 1976).

5. Bradley V. Coughlin 671 F2d. 686 (2nd Cir. 1982).

6. Harris Truck Lines V. Cherry Meat Packers, Inc. 371 U.S. 215, 83 S.Ct. 283, 9 L.Ed.2d. 261 (1962).

7. Thompson V. Immigration & Naturalization Service 375 U.S. 384, 84 S.Ct. 397, 11 L.Ed. 2d. 404 (1964).

8. United States V. Ford 627 F2d. 807 at 811 (7th Cir. 1980).

9. Inglese V. Warden U.S. Penitentiary 687 F2d. 362 (11th Cir. 1982).

10. Yates V. Mobile County Personnel Board 658 F2d. 298 (5th Cir. 1981).

11. Stevens V. Heard 674 F2d. 320 (5th Cir. 1982).

12. United States V. Quimby 636 F2d. 86 (5th Cir. 1981).

13. United States V. Ward 696 F2d. 1315 at 1315 (11th Cir. 1983).

14. United States V. Jackson 684 F2d. 245 at 246 n3 (3rd Cir. 1982).

15. Webb V. Dept. of Health and Human Ser. 696 F2d. 101 (Dist. of Col. Cir. 1982).

16. Doctor V. Seaboard Coast Line R. Co. 540 F2d. 699 (4th Cir. 1976).

17. United States V. Hoye 547 F2d. 1271 (6th Cir. 1977).

    ID at 1273 reads in part: "However, where a document is filed within the 40-day period which represents a clear assertion of an intent to appeal, Courts of Appeals have the power to overlook irregularities where fairness and justice so require."

18. United States V. Umfress 562 F2d. 359 (5th Cir. 1977).

CONCLUSION-REASONS FOR GRANTING THIS WRIT

After the District Court issued its final ruling dated July 19, 1982, petitioner

wrote the District Court several letters concerning an appeal. By letter dated September 14, 1982, the Court Clerk wrote the appeal could be filed by mail and would be filed if timely received. Petitioner mailed his appeal by certified mail, Sep. 24, 1982. The Post Office said that normal mail delivery was one day between Chickasha and Muskogee, Oklahoma, and that a letter mailed on the 24th would normally be in the Post Office in Muskogee on the 25th with notification of certified mail being given on the same day (Appendix C).

Petitioner received a letter from the Court Clerk referring to a phone call from petitioner concerning his appeal and stating that said letter was to serve as a receipt for his letter of Sep. 24, 1982. (His Appeal). The letter was dated Sept. 30, 1982.

The appeal was docketed Oct. 7, 1982.

The District Court did not at any time inform petitioner his appeal was untimely.

Defendant named in the appeal did not move for dismissal because appeal was untimely nor has defendant ever filed any papers with either the District Court or the Tenth Court of Appeals since the Notice of Appeal was filed in the District Court although the opportunity to do so was presented by both courts.

The Tenth Court of Appeals did not inform petitioner his appeal was being considered untimely until Dec. 20, 1982 by letter dated Dec. 16, 1982.

After being informed his appeal was untimely, petitioner filed with the District Court a motion NUNC PRO TUNC for an extension of time for excusable neglect.

By Minute Order the District Court granted the motion dated 4 Feb. 1983.

The appeals courts do not agree together

on the interpretations of Federal Rule of Appellate Procedure, Rule 4(a)(1).

The appeals courts do not agree on a NUNC PRO TUNC Motion.

The district court has jurisdiction and authority to extend the time for filing an appeal for excusable neglect.

The ruling by the Tenth Circuit Court of Appeals does not agree with the case law established by the other circuits nor with the case law established by the Supreme Court.

The Supreme Court and the other circuits have established case law concerning untimely filed appeals which take into consideration unique circumstances, intent, interest of justice, pro se status, and a common sense approach which the Tenth Circuit has totally disregarded in its ruling.

For the foregoing reasons in this conclusion, petitioner, Claire Coleman Gorst,

respectfully requests that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Tenth Circuit.

Respectfully submitted,

Claire C. Gorst

Claire C. Gorst,
Petitioner
Route 1, Box 33A
Rush Springs, OK 73082

Dated: 29 Nov. 1983

CERTIFICATE OF SERVICE

I, Claire Coleman Gorst, Petitioner, hereby certify that on this 7th day of January, 1984, I served three copies of the foregoing "Petition for Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit" upon the Solicitor General of the United State by mailing the same to him via the United States mail, first class postage prepaid, from Chickasha, Oklahoma, addressed to him at the Department of Justice, Washington, D.C. 20530.

Claire C. Gorst

CLAIRE COLEMAN GORST
ROUTE 1, BOX 33A
RUSH SPRINGS, OKLA. 70382

Petitioner

APPENDIX A

ORDER AND JUDGMENT

Claire C. GORST,
Plaintiff-Appellant,

V.

John R. Block, Secretary
UNITED STATES DEPARTMENT OF AGRICULTURE
Defendant-Appellee.

No. 82-2221

United States Court of Appeals,
Tenth Circuit

June 28, 1983

Appeal from the United States District Court for the Eastern District of Oklahoma.

ORDER AND JUDGMENT.

Before SETH, Chief Judge, BARRETT and MCKAY, Circuit Judges.

In accordance with 10th Cir. R. 9(e) and Fed.R.App.P. 34(a), this appeal came on for consideration on the briefs and record on appeal.

The notice of appeal in this case was untimely filed on Sep. 28, 1982, one day beyond the time prescribed by Fed.R.App.P. 4(a)(1). Plaintiff argues that the notice of appeal was mailed sufficiently in advance for timely filing. This contention is without merit. See Sanchez v. Board of Regents of Texas Southern University, 625 F2d. 521 (5th Cir. 1980); Matter of Bad Bubba Racing Products, Inc., 609 F2d. 815 (5th Cir. 1980); United States v. Ming Sen

Shiue, 508 F. Supp. 460 (D. Minn. 1981). Nor may this court enlarge the time for filing a notice of appeal. Fed.R.App.P. 26(b); Wyzik v. Employee Benefit Plan of Crane Co., 663 F2d. 348 (1st Cir. 1981).

Included in the clerk's file is a copy of a minute order entered by the district court on February 4, 1983, purporting to grant an extension of time to file a notice of appeal. The order, however, is a nullity because the record clearly demonstrates that the motion for extension of time was not made within the time requirements of Fed.R.App.P. 4(a)(5). See Mayfield v. United States Parole Commission, 647 F2d. 1053 (10th Cir. 1981); Briggs v. Lucas, 678 F2d. 612 (5th Cir. 1982); Wyzik v. Employee Benefit Plan of Crane Co., supra. See 10th Cir. R 17(b).

The appeal is DISMISSED.

The mandate shall issue forthwith.

Howard K. Phillips, Clerk

APPENDIX B

OPINION ON REHEARING

CLAIRE C. GORST
Plaintiff-Appellant,

V.

JOHN R. BLOCK, SECRETARY,
UNITED STATES DEPARTMENT OF AGRICULTURE
Defendant-Appellee

No. 82-2221

United States Court of Appeals
Tenth Circuit

September 6, 1983.

Before SETH, Chief Judge and HOLLOWAY, McWILLIAMS, BARRETT, DOYLE, McKAY, LOGAN, and SEYMOUR, Circuit Judges, United States Court of Appeals.

This matter comes on for consideration of petitioner's petition for rehearing, with suggestion for rehearing in banc, which we also construe as a motion to recall the mandate.

Upon consideration thereof, the petition for rehearing is denied by the panel to whom the case was submitted.

The petition for rehearing having been denied by the panel to whom the case was submitted, and no member of the panel nor judge in regular active service on the court having requested that the court be polled on rehearing in banc, Fed. R. App.P. 35, the suggestion for rehearing in banc is denied.

HOWARD K. PHILLIPS, Clerk

APPENDIX C

Letters from Court Clerk's Office, United States District Court, Eastern District of Oklahoma, to Claire C. Gorst.

United States District Court

Office of the Clerk
Eastern District of Okla.
Muskogee, Oklahoma 74401

August 6, 1982

Lewis L. Vaughn
Clerk

Telephone
918-687-2471
FTS 736-2471

Mr. Claire C. Gorst
Route 1, Box 33A
Rush Springs, Oklahoma 73082

Re: 77-411-C, USDC, ED/OK
Gorst v. Bergland, et al.

Dear Sir:

We received your letter inquiring about procedures for appeals. The fee for an appeal is $70.00 and $250.00 cost bond. You will need to file a Notice of Appeal in this Court within 30 days of the date of the order you are appealing. After the Notice is filed you would need to order a transcript of the proceedings and designate the pleadings you wish to be included in

the appeal. The Tenth Circuit sends information to appellants regarding further proceedings after they have docketed the case. In response to your request for a copy of the Brief I do not find a brief filed in January of 1982. There was a Post-trial brief filed February 23rd. We are required to charge 50 cents per page for copies. There are 14 pages in this brief and the charge, payable in advance, would be $7.00.

Sincerely,

LEWIS L. VAUGHN, Clerk

By: /s/ Neal Apple
Deputy Clerk

na

Appendix C (1.2)

United States District Court

Office of the Clerk
Eastern District of Okla.
Muskogee, Oklahoma 74401

August 11, 1982

Lewis L. Vaughn
Clerk

Telephone
918-687-2471
FTS 736-2471

Claire C. Gorst
Route 1, Box 33A
Rush Springs, OK 73082

Re: 77-411-C, USDC, ED/OK
Gorst vs. Bergland, et al.

Dear Sir:

Enclosed is a copy of the brief you requested with a receipt in the sum of $7.00 for the copies.

You are correct in noting where the United States is a party to a case the notice of appeal may be filed by any party within 60 days after judgment. With reference to the $250.00 cost bond, Rule 7 of the Federal

Rules of Appellate Procedure provides a cost bond may be requested by the district court. This court requires the cost bond in our appeals.

The designation of record means to list pleadings or make statements to show the pleadings you wish included. (example: all orders of the court) A transcript order form is furnished to appellants which states you want all (or part) of the testimony recorded by the court reporter. You would be responsible for making arrangements with the reporter to pay for any transcript of testimony you order.

If you have further questions please feel free to ask.

Sincerely,

LEWIS L. VAUGHN, Clerk

By: /s/ Neal Apple
Deputy Clerk

na
Encl.

Appendix C (2.2)

United States District Court

Office of the Clerk
Eastern District of Okla.
Muskogee, Oklahoma 74401

September 14, 1982

Lewis L. Vaughn
Clerk

Telephone
918-687-2471
FTS 736-2471

Claire C. Gorst
Route 1, Box 33A
Rush Springs, OK 73082

IN RE: Case No. 77-411-C
Gorst vs. Bergland, et al.

Dear Sir:

This will acknowledge receipt of your letter dated September 13, 1982 in reference to the above case.

The $250.00 Cost Bond on appeal must be made in cash, (Cashier's Check or Money Order) or a surety bond. (through a bonding company).

Yes, you may send your Notice of Appeal in

the mail and it will be filed if received timely. The file is in this office and may be examined by you at any time. You may also examine the exhibits, if you wish to.

Sincerely yours,

LEWIS L. VAUGHN, Clerk

BY: /s/ Teresa Loyd

Deputy Clerk

tl

Appendix C (3.2)

United States District Court
Office of the Clerk
Eastern District of Okla.
Muskogee, Oklahoma 74401
September 30, 1982

Lewis L. Vaughn
Clerk

Telephone
918-687-2471
FTS 736-2471

Claire C. Gorst
Route 1, Box 33A
Rush Springs, OK 73082

IN RE: Case No. 77-411-C
Gorst vs. Bergland, et al.

Dear Sir:

This will acknowledge receipt of your letter of September 24, 1982.

I'm sure you have received the other letter, your copies, etc., by now. As to your questions concerning a minute order striking the jury trial in this case, I enclose the same. I believe the other questions have been answered either on the phony today, or in my other letter.

Sincerely yours,
LEWIS L. Vaughn, Clerk
By: /s/ Teresa Loyd
Deputy Clerk

tl
encl.

Appendix C (4.1)